

**IN THE SUPREME COURT OF BELIZE, A.D. 2022
CRIMINAL JURISDICTION**

CENTRAL DISTRICT

Indictment No. S7 of 2018

THE QUEEN

v.

MR. JOHN SAKI

- Incest

BEFORE Honourable Justice Mr. Francis Cumberbatch

APPEARANCES Mr. Javier Chan – Counsel for the Crown
Mr. Oscar Selgado – Counsel for the Accused

TRIAL DATES 10th, 11th, 17th, and 20th of July 2018.

JUDGMENT ON SENTENCING

{1} The Accused was indicted by the Director of Public Prosecutions for the offense of incest. On the 5th of September 2016, at Laguna Village in the District of Toledo, he had carnal knowledge of, Alicia Saki, his daughter.

{2} At his arraignment the Accused entered a plea of not guilty and his trial commenced. After the testimony of the virtual complainant, he changed his plea to one of guilty.

The Facts

- {3} The Accused is the biological father of the virtual complainant. On the night in question, he and his common-law-wife the mother of the virtual complainant argued, and she left the home. Sometime after the Accused called the virtual complainant to go outside to help him look for her mother. He took along with him a machete.
- {4} The Accused took his daughter to an area some 200 feet from the house and told her to lie down and remove her pants and underwear. When she refused to do, so he placed the machete at her throat and threatened to kill her. In fear for her life, she complied with his demands. He undressed and got on top of her. He was impervious to her cries to desist from what he was about to do. He went on to have sexual intercourse with his daughter.
- {5} I find the following to be the aggravating and mitigating factors herein.

Aggravating Factors

1. The breach of trust committed by the Accused with his daughter.
2. The gravity of the offense which was planned and premeditated.
3. The emotional and psychological trauma suffered by the virtual complainant.
4. The tender age of the virtual complainant who was 13 years old at the time of the commission of these offenses.

5. The prevalence and public abhorrence of the offenses.

Mitigating Factors

1. The guilty plea entered by the Accused.
2. The remorse expressed.

Sentence

- {6} I have conducted a balancing exercise of the aggravating and mitigating factors herein and find that the aggravating factors outweigh the mitigating ones. At the time of the commission of this offense, the virtual complainant was still *virgo intacto*. As is oftentimes the case in matters of this nature the emotional and psychological trauma suffered by the victim is overwhelming. She will require a period of intense counseling to heal her mind from this horrifying experience. Indeed, this bizarre introduction to sexual intercourse cannot be remedied.
- {7} The prevalence of this offense is a matter of national concern to the extent that parliament has enacted recent legislation of draconian terms to combat this evil. In this regard, this offense carries a mandatory minimum sentence of 12 years imprisonment for anyone who is convicted of committing incest. The Court is empowered to impose a sentence between 12 years and life imprisonment for anyone found guilty of committing incest.

{8} The aggravating factors substantially outweigh the mitigating ones. The gravity of the offense cannot be trivialized. In fact, it is made that much more egregious by the use of a machete by the Accused to terrify his daughter to submit to his sexual advances in their yard on a dark night.

{9} I will take into consideration the guilty plea entered by the Accused though not at the earliest available opportunity. In so doing, I am aware that the Accused was at all times save and except at the sentencing stage unrepresented by Counsel. I will also consider the remorse expressed. I will also take into account the time spent on remand by the Accused who was denied bail by the Court.

{10} Accordingly, I will not impose a penalty in excess of the mandatory minimum of 12 years imprisonment. I will deduct 1 year and 9 months from that time. Thus, the Accused will serve a period of imprisonment of 10 years and 3 months. He shall receive all necessary counseling for pedophilia. This sentence takes effect from today.

{11} The Court is aware that the Accused was sentenced to a fine of \$1,205.00 or 6 months imprisonment. The fine has not been paid and it is obvious that the Accused was in custody when that fine should have been paid.

Accordingly, I will order that the sentences for the offenses of wounding and incest run concurrently.

Dated this **20th day of July 2018.**

Honourable Justice Mr. F M Cumberbatch
Justice of the Supreme Court
Central Jurisdiction